EXHIBIT 1

NOTICE LETTER

National Environmental Law Center
44 Winter Street, Boston, MA 02108 (617) 422-0880 Fax: (617) 292-8057

June 27, 2008

BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Shawn J. Brown
Interim Town Administrator
Town of Middletown
330 East Main Road
Middletown, Rhode Island 02842

Dear Mr. Brown:

I write to you on behalf of Environment Rhode Island and its members and Newport residents Burton Hoffman, Henry Rosemont, Jr., David Wixted, and Henry T. Wrobel (collectively, "Environment Rhode Island").

The Town of Middletown ("Middletown") owns and operates a sanitary sewer system, including the Wave Avenue Pump Station, and a storm sewer system. Based on available information, Environment Rhode Island believes that both of these systems are currently being operated in violation of the federal Clean Water Act ("CWA" or "the Act"), 33 U.S.C. § 1251, et seq. Accordingly, Environment Rhode Island intends to file suit against Middletown to enforce the terms of the Act.

As you know, Environment Rhode Island has previously sent a similar notice to the City of Newport (and its engineering contractor, Earth Tech). It is Environment Rhode Island's hope that these two lawsuits will spur the kind of cooperative effort between Newport and Middletown that will be required to end the ongoing pollution of Easton's Bay. To that ultimate end, we would welcome an opportunity to meet with you again to discuss this matter in advance of the formal court filing, as we believe there is ample potential here for an amicable settlement that provides for long-lasting protection of Easton's Bay.

Detailed below are what we believe are significant violations of section 301(a) of the CWA, 33 U.S.C. § 1311(a), which prohibits the discharge of pollutants into the waters of the United States except in compliance with certain specified sections of the Act, including section 301 and section 402, 33 U.S.C. § 1342. Middletown's violations of this prohibition are associated with the discharge of (largely) untreated sewage from its sanitary sewer system, and with the discharge of high levels of bacteria from its storm sewer system.

I. Violations Associated With Sanitary Sewer Overflows

Middletown's sanitary sewer system is designed to convey sewage to the Newport Water Pollution Control Plant for treatment. Periodically, however, and generally during periods of heavy rain, Middletown discharges raw sewage directly to the waters of the United States through what are known as sanitary sewer overflows ("SSOs").[1] These SSOs occur most often at the Wave Avenue Pump Station, but they occur at other points in the sanitary sewer system as well. The SSOs from the Wave Avenue Pump Station flow to the Easton Pond Moat and from there to Easton's Bay. Table 1, attached, lists the reported dates and volumes of Middletown's SSO discharges to Easton Pond Moat, Sachuest Bay, Coddington Cove, and Bailey's Brook from August 2003 through March 2008. Each and every such SSO discharge constitutes a violation of section 301(a) of the CWA.

A. Discharge of Pollutants without a Permit

CWA sections 301(a) and 402 prohibit the discharge of pollutants to the waters of the United States unless such discharge is covered by, and in compliance with, a National Pollutant Elimination System ("NPDES") permit. Because Middletown does not have an NPDES permit authorizing the discharge of pollutants from its sanitary sewer system, all of its SSO discharges violate the Act.

B. Discharge in Violation of Technology-Based Effluent Limits

CWA sections 301(a) and 301(b)(1)(B) require all discharges of pollutants from Publicly Owned Treatment Works ("POTWs") to meet national effluent limits set by the United States Environmental Protection Agency ("EPA") based on the degree of effluent reduction attainable through the application of secondary sewage treatment. EPA's limits, codified at 40 C.F.R. § 133.102, require 85% removal of biochemical oxygen demand ("BOD") and total suspended solids ("TSS"), and further require that the effluent concentrations of BOD and TSS be no more than 30 mg/L as a 30-day average, and no more than 45 mg/L as a 7-day average. Because Middletown does not apply BOD or TSS removal technology or methodology to its SSO discharges, all such discharges are in violation of these limits, and thus of the Act.

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[1] We acknowledge that Middletown's standard operating procedures for such discharges specifiy that chlorine is to be added prior to discharge. To the extent that this is done, the sewage can be considered partially "treated." However, it does not appear that the chlorine addition happens consistently or that, when chlorine is added, it is sufficent to reduce bacteria levels to required levels.

C. Discharge in Violation of Water Quality-Based Limits

CWA sections 301(a) and 301(b)(1)(C) require all discharges of pollutants from a point source to meet effluent limits necessary to achieve water quality standards in the receiving waters. All SSO discharge from the Wave Avenue Pump Station cause or contribute to violations of the water quality standards for fecal coliform, enterococcus bacteria and/or odor in Easton's Bay, and thus violate the Act.[2] Further, it is likely that the SSO discharges from other points in the Middletown sanitary sewer system cause or contribute to violations of these water quality standards in their respective receiving waters, and thus violate the Act.

D. Discharge in Violation of EPA Combined Sewer Overflow Policy

Alternatively, if the Middletown sanitary sewer system is not a POTW within the meaning of the CWA, the Middletown SSOs are combined sewer overflows ("CSOs") within the meaning of CWA section 402(q). That provision, in conjunction with CWA section 301(a), requires CSO discharges to be in conformance with EPA's CSO control policy. Middletown's SSO discharges do not conform to the following provisions of EPA's CSO control policy: III.A and IV.B.1.c (requiring compliance with narrative water quality standards); II.A, II.B, and IV.B.1.d (requiring preparation and submittal of a long-term CSO control plan); II.B.6 (requiring control of solid and floatable materials in CSOs; II.B.7 (pollution prevention); II.B.9 (requiring monitoring of CSOs and receiving water quality).

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[2] The applicable water quality standards are found in the State of Rhode Island and Providence Plantations Department of Environmental Management Water Quality Regulations (July 2006), at Rule 8.D(3), Table 2. The limit for fecal coliform is: "Not to exceed a geometric mean value of 50 MPN/100 ml and not more than 10% of the total samples taken shall exceed 400 MPN/100 ml, applied only when adequate enterococci data are not available." The limit for enterococci is 35 colonies/100 ml as a geometric mean density and 104 colonies/100 ml as a single sample maximum (the latter being the beach closure criterion). The criterion for taste and odor is "none allowable except as naturally occurs."

II. Violations of the Rhode Island General Permit for Storm Water Discharge from Small Municipal Separate Storm Sewer Systems

Middletown discharges storm water to Easton's Bay pursuant to the Rhode Island General Permit for Storm Water Discharge from Small Municipal Separate Storm Sewer Systems, No. RIR040000 ("General Permit"), which was issued by the Rhode Island Department of Environmental Management ("RIDEM") under CWA section 402(p). Any failure to comply with the terms of this General Permit constitutes a violation of CWA section 301(a). Environment Rhode Island believes that Middletown is currently in violation of two provisions of the General Permit.

A. Discharges of Storm Water in Violation of State Antidegradation Policy

The General Permit, I.B.4.k, prohibits "discharges not in compliance with the state's anti-degradation policy for water quality standards." Rule 18.B of the Rhode Island Water Quality Regulations, which applies to discharges that began or were expanded after November 28, 1975, prohibits degradation of a water body that interferes with an existing use. The bacteria levels in the discharges from the Middletown storm sewer system to Easton's Bay, especially through the two Esplanade storm water outfalls, are significant contributors to the frequent closing of Easton Beach (First Beach) and Atlantic Beach for swimming and other recreational activities. This contaminated discharge and the odor associated with the discharge interfere with those uses in violation of the antidegradation policy.

B. Failure to Eliminate the Cause of Excessive Bacterial Contamination

The General Permit, I.D, provides that RIDEM will notify the operator of a storm water system if a discharge from that system is "determined to cause or contribute or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard, or to be a significant contributor of pollutants." RIDEM has notified Middletown that the bacteria levels in its storm water discharges to Easton's Bay especially through the two Esplanade storm water outfalls, cause or contribute to violations of the water quality standards for fecal coliform and enterococcus bacteria, and are significant contributors of these pollutants to the Bay. Accordingly, Middletown is required by this section of the General Permit to "revise [its] SWPPP [storm water pollution prevention plan] to eliminate the cause or reasonable potential to cause or contribute to a violation of an applicable water quality standard and to reduce any sources identified as significant contributors of pollutants." Middletown has not taken these actions, and thus is in violation of the General Permit.

Additional information, including information in Middletown's possession, may reveal additional violations of the Clean Water Act at the town's sanitary sewer or storm sewer system. This letter covers all such violations occurring within the five years immediately preceding the service of this notice letter.

Under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen may commence an enforcement action against any person who violates an "effluent standard or limitation" under the CWA. Environment Rhode Island intends to file suit against Middletown in federal court to secure appropriate relief under federal law for these violations and for any similar violations that occur after the date of this notice letter. In so doing, Environment Rhode Island seeks to improve the water quality of Easton's Bay and its beaches by securing long-term compliance with applicable law. Pursuant to Section 505 of the CWA, 33 U.S.C. § 1365(d), the Court, in issuing any final order in this case, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or substantially prevailing plaintiffs.

If you believe any of the information set forth in this letter is inaccurate, if you believe you are currently in compliance with the Clean Water Act, or if you have any questions concerning this letter or the described violations, please contact me immediately.

We would welcome the opportunity to work with you to develop an enforceable compliance schedule and to facilitate coordination between the Town of Middletown and the City of Newport in addressing the mutual problem of the pollution of Easton's Bay.

Sincerely,

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Hon. Donald L. Carcieri
Governor of the State of Rhode Island
State House, Room 115
Providence, Rhode Island 02903

W. Michael Sullivan
Acting Director
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TABLE 1 - MIDDLETOWN SANITARY SEWER OVERFLOW EVENTS

August 2003 - April 2008

Date	Location	Bypass Amount (gallons)	Receiving Water Body
March 8, 2008	Wave Avenue Pump Station	137,000	South Easton Pond Moat
February 13, 2008	Wave Avenue Pump Station	158,000	South Easton Pond Moat
February 8, 2008	Paradise Avenue	10,000	Sachuest Bay
April 16, 2007	Coddington Highway Pump Station	5,000	Coddington Cove
April 15, 2007	William Drive	2,000	Bailey's Brook
April 15, 2007	Wave Avenue Pump Station	1,350,000	South Easton Pond Moat
March 17, 2007	Wave Avenue Pump Station	560,000	South Easton Pond Moat
March 2, 2007	Wave Avenue Pump Station	170,000	South Easton Pond Moat
November 23, 2006	Wave Avenue Pump Station	240,000	South Easton Pond Moat
July 11, 2006	Wave Avenue Pump Station	1,500,000	South Easton Pond Moat
June 7, 2006	Wave Avenue Pump Station	750,000	South Easton Pond Moat
May 13, 2006	Wave Avenue Pump Station	1,000,000	South Easton Pond Moat
March 21, 2006	Coddington Highway Pump Station	50	Coddington Cove
January 14, 2006	Wave Avenue Pump Station	1,200,000	South Easton Pond Moat
January 3, 2006	Wave Avenue Pump Station	170,000	South Easton Pond Moat
December 13, 2005	Wave Avenue Pump Station	2,500,000	South Easton Pond Moat
November 30, 2005	Wave Avenue Pump Station	1,400,000	South Easton Pond Moat
November 22, 2005	Wave Avenue Pump Station	2,800,000	South Easton Pond Moat
October 14, 2005	Wave Avenue Pump Station	1,900,000	South Easton Pond Moat
May 22, 2005	Wave Avenue Pump Station	1,500,000	South Easton Pond Moat
April 8, 2005	Wave Avenue Pump Station	52,000	South Easton Pond Moat
April 2, 2005	Wave Avenue Pump Station	1,400,000	South Easton Pond Moat
March 28, 2005	Wave Avenue Pump Station	2,200,000	South Easton Pond Moat
March 8, 2005	Wave Avenue Pump Station	5,000	South Easton Pond Moat
January 14, 2005	Wave Avenue Pump Station	7,000	South Easton Pond Moat
January 8, 2005	Wave Avenue Pump Station	25,000	South Easton Pond Moat
September 29, 2004	Wave Avenue Pump Station	171,000	South Easton Pond Moat
August 15, 2004	Wave Avenue Pump Station	15,000	South Easton Pond Moat
August 15, 2004	Coddington Highway Pump Station	500	Coddington Cove
April 14, 2004	Wave Avenue Pump Station	70,000	South Easton Pond Moat
February 6, 2004	Wave Avenue Pump Station	80,000	South Easton Pond Moat
January 10, 2004	Coddington Highway Pump Station	100	Coddington Cove
December 21, 2003	Coddington Highway Pump Station	200	Coddington Cove
December 15, 2003	Wave Avenue Pump Station	20,000	South Easton Pond Moat
December 11, 2003	Wave Avenue Pump Station	50,000	South Easton Pond Moat
December 3, 2003	Coddington Highway Pump Station	200	Coddington Cove
August 8, 2003	Wave Avenue Pump Station	50,000	South Easton Pond Moat